

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jean Paul Lozada	Team: Squad #2	CCRB Case #: 201805526	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 07/04/2018 8:50 PM	Location of Incident: East 135th Street and 5th Avenue	Precinct: 25	18 Mo. SOL 1/4/2020	EO SOL 1/4/2020	
Date/Time CV Reported Sun, 07/08/2018 9:08 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sun, 07/08/2018 9:08 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. LT Filastin Srour	00000	933550	032 PCT
2. DTS Andrew Nash	05497	950935	032 PCT
3. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DTS Anthony Lafemina	06661	949190	032 PCT
2. DTS Daniel Wadolowski	732	954413	032 PCT
3. POF Samia Johnson	22172	920439	025 PCT
4. POM Hyppolite Paul	16390	959879	025 PCT
5. POF Briana Juliano	01555	959717	025 PCT
6. POM Robert Renz	10375	961158	025 PCT
7. POM Michael Pescatore	16738	961100	025 PCT
8. POM Anthony Ippolito	16570	957699	025 PCT
9. POM Chris Ganesh	21265	959647	025 PCT
10. POM Daniel Traylor	02758	961442	025 PCT
11. POM Bryan Gray	00397	959671	025 PCT
12. POM Jason Brochhausen	18783	948695	025 PCT
13. POM Travis Jordan	08283	962178	025 PCT
14. POM Michael Maguire	15172	957797	025 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
15. POM Kevin Weber	26421	948439	025 PCT
16. POM John Lapierre	26864	955032	025 PCT
17. POM David Listhrop	18479	961895	025 PCT
18. POM Brian McGill	23517	963154	025 PCT

Officer(s)	Allegation	Investigator Recommendation
A.LT Filastin Srou	Discourtesy: Lieutenant Filastin Srou spoke discourteously to § 87(2)(b)	
B.LT Filastin Srou	Force: Lieutenant Filastin Srou used physical force against § 87(2)(b)	
C.DTS Andrew Nash	Force: Detective Andrew Nash struck § 87(2)(b) with a radio.	
D.DTS Andrew Nash	Force: Detective Andrew Nash used physical force against § 87(2)(b)	
E.DTS Andrew Nash	Force: Detective Andrew Nash used pepper spray against § 87(2)(b)	
F.DTS Andrew Nash	Abuse: Detective Andrew Nash threatened individuals with the use of force.	
G.DTS Andrew Nash	Force: Detective Andrew Nash used physical force against § 87(2)(b)	
H.DTS Andrew Nash	Force: Detective Andrew Nash used physical force against § 87(2)(b)	
I.DTS Andrew Nash	Force: Detective Andrew Nash used physical force against § 87(2)(b)	
J.DTS Andrew Nash	Discourtesy: Detective Andrew Nash spoke discourteously to individuals.	
K. An officer	Abuse: An officer threatened § 87(2)(b) with the use of force.	
L.LT Filastin Srou	Force: Lieutenant Filastin Srou used physical force against § 87(2)(b)	
M.LT Filastin Srou	Abuse: Lieutenant Filastin Srou stopped § 87(2)(b)	
N.LT Filastin Srou	Discourtesy: Lieutenant Filastin Srou spoke discourteously to § 87(2)(b)	
O.LT Filastin Srou	Off. Language: Lieutenant Filastin Srou made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)	
P.LT Filastin Srou	Abuse: Lieutenant Filastin Srou threatened § 87(2)(b) Strong- § 87(2)(b) with the use of force.	
Q. An officer	Abuse: An officer threatened to arrest § 87(2)(b)	
R. An officer	Abuse: An officer interfered with § 87(2)(b) use of a recording device.	
S. An officer	Abuse: An officer interfered with § 87(2)(b) s use of a recording device.	
T. An officer	Abuse: An officer threatened § 87(2)(b) with the use of force.	

## Case Summary

On July 8, 2018, § 87(2)(b) filed this complaint with the CCRB via the Call Processing System on behalf of herself and her extended family, including § 87(2)(b)

§ 87(2)(b) and § 87(2)(b). On the same date, § 87(2)(b) filed a duplicate complaint via the Call Processing System (case 201805541). This case was originally assigned to Investigator Jeffrey Mullinelli and was reassigned to Supervising Investigator Jean-Paul Lozada on November 29, 2018.

On July 4, 2018, at approximately 8:50 p.m., Lieutenant Filastin Srouer and Detective Andrew Nash of the 32<sup>nd</sup> Precinct responded to a radio run for shots fired at 5<sup>th</sup> Avenue and East 135<sup>th</sup> Street in Manhattan. When they arrived, they observed § 87(2)(b) who they believed was distributing fireworks to children. Lieutenant Srouer and Detective Nash approached § 87(2)(b) and spoke to him about the fireworks. § 87(2)(b) approached them, and Lieutenant Srouer allegedly said, “Fuck you” (**Allegation A – Discourtesy: Word**, § 87(2)(g)). Lieutenant Srouer allegedly pushed § 87(2)(b) back (**Allegation B – Force: Physical Force**, § 87(2)(g)), and a physical struggle ensued between them.

Lieutenant Srouer punched § 87(2)(b) in her face, placed her against a vehicle, pulled her hair, and continued to punch her (**within Allegation B**). Detective Nash allegedly struck § 87(2)(b) near her left eye with his radio (**Allegation C – Force: Radio as Club**, § 87(2)(g)). § 87(2)(b) approached Detective Nash, who allegedly punched her in her face (**Allegation D – Force: Physical Force**, § 87(2)(g)). § 87(2)(b) approached Lieutenant Srouer and § 87(2)(b) and Detective Nash pepper sprayed him and then aimed his pepper spray towards the crowd that had gathered around them (**Allegation E – Force: Pepper Spray; Allegation F – Abuse of Authority: Threat of Force**, § 87(2)(g)). Detective Nash pushed § 87(2)(b) and § 87(2)(b) and punched § 87(2)(b) in his face after § 87(2)(b) allegedly swung at him and Lieutenant Srouer (**Allegations G and I – Force: Physical Force**, § 87(2)(g); **Allegation H – Force: Physical Force**, § 87(2)(g)). The crowd did not comply with Detective Nash’s and Lieutenant Srouer’s numerous orders to back up, so Detective Nash told the crowd to “back the fuck up” (**Allegation J – Discourtesy: Word**, § 87(2)(g)).

Detective Nash requested assistance, and numerous officers from the 25<sup>th</sup> and 32<sup>nd</sup> Precincts arrived at the scene. As § 87(2)(b) was being handcuffed, an unidentified officer allegedly drew his Taser and pointed it towards him (**Allegation K – Abuse of Authority: Threat of Force**, § 87(2)(g)). While § 87(2)(b) was being handcuffed, § 87(2)(b) pushed him and advised him against speaking to the officers, and she told the officers that he had done nothing wrong. Lieutenant Srouer then approached § 87(2)(b) and allegedly punched her in her left ear (**Allegation L – Force: Physical Force**, § 87(2)(g)). Lieutenant Srouer told the officers to handcuff § 87(2)(b) who was handcuffed but later released at the scene without being arrested or summonsed (**Allegation M – Abuse of Authority: Stop**, § 87(2)(g)). Lieutenant Srouer saw § 87(2)(b) and said, “You’re one of them, you fucking bitch. Hold me back before I kill this bitch,” and, “I want you all to fucking kill her” (**Allegation N – Discourtesy: Word; Allegation O – Offensive Language: Gender; Allegation P – Abuse of Authority: Threat of Force**, § 87(2)(g)). An unidentified officer allegedly told § 87(2)(b) who was filming the incident, that she could be arrested if she kept recording

**(Allegation Q – Abuse of Authority: Threat of Arrest; Allegation R – Abuse of Authority: Interference with Recording; § 87(2)(g) )**. An unidentified officer allegedly told § 87(2)(b) who was also filming, to put her phone away or she would punch her in the face **(Allegation S – Abuse of Authority: Interference with Recording; Allegation T – Abuse of Authority: Threat of Force; § 87(2)(g) )**.

§ 87(2)(b) and § 87(2)(b) were each arrested due to this incident. Their charges include § 87(2)(b) (for the fireworks). § 87(2)(b) was subsequently arrested on § 87(2)(b) for allegedly assaulting Lieutenant Srour.

Surveillance footage was obtained from the NYCHA Abraham Lincoln Houses, and a camera from 2201 5<sup>th</sup> Avenue captured the incident (IA #327, Board Review 03; full video in IA #90). § 87(2)(b) provided five cell phone videos of the incident (IA #172-176, Board Review 04-08). Footage was obtained from the body-worn cameras (BWC) of Police Officer Samia Johnson, Police Officer Paul Hyppolite, Police Officer Briana Juliano, Police Officer Robert Renz, Police Officer Michael Pescatore, Police Officer Anthony Ippolito, Police Officer Chris Ganesh, Police Officer Daniel Traylor, Police Officer Bryan Gray, Police Officer Jason Brochhausen, Police Officer Travis Jordan, Police Officer Michael Maguire, Police Officer Kevin Weber, Police Officer John Lapierre, Police Officer Brian McGill, and Police Officer David Listhrop, each of the 25<sup>th</sup> Precinct (IA #92-109). Lieutenant Srour and Detective Nash did not have body-worn cameras at the time of this incident.

### **Findings and Recommendations**

#### **Allegation (A) Discourtesy: Lieutenant Filastin Srour spoke discourteously to § 87(2)(b)**

§ 87(2)(b) was interviewed at the incident location on July 18, 2018, § 87(2)(b) provided a telephone statement on July 13, 2018 (Board Review 09) and was interviewed at the incident location on August 10, 2018. § 87(2)(b) provided an initial complaint narrative for duplicate case 201805541, but contact was unable to be established with him for this case. § 87(2)(b) and § 87(2)(b) provided telephone statements on September 5, 2018 (Board Review 10). § 87(2)(b) did not appear at the CCRB for scheduled interview appointment and said she did not wish to reschedule. § 87(2)(b) was not cooperative in scheduling an interview appointment. § 87(2)(b) a minor, provided a telephone statement on September 19, 2018 (Board Review 11), but her guardian, § 87(2)(b) was not cooperative in scheduling an interview appointment for her. § 87(2)(b) scheduled an interview appointment for January 14, 2019 but failed to appear. § 87(2)(b) provided a telephone statement on May 15, 2019 (Board Review 12), but he did not appear the CCRB for his scheduled interview appointments. § 87(2)(b) did not wish to participate in this complaint. Lieutenant Srour was interviewed on April 2, 2019, and Detective Nash was interviewed on April 9, 2019.

§ 87(2)(b) stated that when § 87(2)(b) approached him and Lieutenant Srour, Lieutenant Srour said, “Fuck you,” to § 87(2)(b) before punching her in the face. None of the other civilians who provided statements repeated this allegation, and none of the videos

capture this alleged statement. Numerous attempts were made to reach § 87(2)(b) to schedule him for an interview appointment, but contact could not be established with him. On October 11, 2019, a search of the NYC Department of Correction database revealed no record of § 87(2)(b) being incarcerated. § 87(2)(g)

**Allegation (B) Force: Lieutenant Filastin Srou used physical force against § 87(2)(b)**

**Allegation (C) Force: Detective Andrew Nash struck § 87(2)(b) with a radio.**

§ 87(2)(b) stated that while Lieutenant Srou discussed the fireworks with § 87(2)(b) she approached them with § 87(2)(b) and § 87(2)(b) and stood approximately 1.5 arm lengths away from them. Lieutenant Srou told everyone to back up, and § 87(2)(b) replied that she was trying to find out what happened with her brother. § 87(2)(b) Lieutenant Srou allegedly pushed § 87(2)(b) back in her chest. § 87(2)(b) provided inconsistent accounts as to whether § 87(2)(b) moved back towards Lieutenant Srou after being pushed, and she denied that § 87(2)(b) punched Lieutenant Srou first. Lieutenant Srou approached § 87(2)(b) punched her in the face a “couple of” times, and told her to back up. Lieutenant Srou then allegedly “slammed” § 87(2)(b) against a parked vehicle and continued to punch her in her head and face. During this struggle, Detective Nash allegedly struck § 87(2)(b) near her eye with his radio, and § 87(2)(b) began to bleed from her nose or her eye. § 87(2)(b) stated that she did not see anyone strike Lieutenant Srou or pull her hair.

§ 87(2)(b) stated what when she arrived at the scene, Lieutenant Srou had already placed § 87(2)(b) against the hood of a parked police SUV. Lieutenant Srou allegedly pulled § 87(2)(b) s hear with both of her hands. § 87(2)(b) saw § 87(2)(b) wipe blood from her face, but she did not see how this injury was sustained. § 87(2)(b) later learned from § 87(2)(b) that she attempted to prevent Lieutenant Srou from bringing her down to the ground. § 87(2)(b) also informed § 87(2)(b) that Detective Nash struck her in the face with his radio before she arrived at the scene; § 87(2)(b) did not see this herself.

§ 87(2)(b) stated that while Lieutenant Srou was speaking to § 87(2)(b) § 87(2)(b) approached them to get Lieutenant Srou to calm down. Lieutenant Srou told § 87(2)(b) to back up, and § 87(2)(b) did not comply. Lieutenant Srou then got “physical” with § 87(2)(b) but § 87(2)(b) was unable to elaborate because his memory of the incident was “blurry.” Detective Nash approached § 87(2)(b) and struck her in the face with a flashlight or a radio, which “busted her nose open.” § 87(2)(b) stated that § 87(2)(b) “defended herself,” but neither § 87(2)(b) nor anyone else struck any of the officers.

§ 87(2)(b) stated that when § 87(2)(b) approached him, Lieutenant Srou punched § 87(2)(b) in the face, § 87(2)(b) struck back at Lieutenant Srou, and a physical fight ensued. He provided no additional information about the officers’ use of force against § 87(2)(b)

§ 87(2)(b) stated that she did not see the beginning of the encounter, but saw Detective Nash strike § 87(2)(b) in the face. § 87(2)(b) was not wearing her glasses, so she did not know whether Detective Nash struck § 87(2)(b) with his fist or an object. § 87(2)(b) provided no additional information about the officers' use of force against § 87(2)(b).

§ 87(2)(b) and § 87(2)(b) made no mention of § 87(2)(b) being struck by an officer in any way. As previously discussed, the investigation was unable to obtain a statement from § 87(2)(b) herself.

In the NYCHA surveillance footage from 2201 5<sup>th</sup> Avenue (IA #327, Board Review 03), Lieutenant Srour and Detective Nash are seen arriving at the scene. They approach § 87(2)(b) and begin interacting with him behind a white SUV that is parked on the east side of 5<sup>th</sup> Avenue. The SUV and a tree branch blocks the view of this interaction. At runtime 01:44, § 87(2)(b) is seen walking from the sidewalk towards the rear of the SUV, followed by § 87(2)(b). What occurs behind the SUV is not visible. § 87(2)(b) re-emerges into the frame when she takes a step back as a result of some physical contact Lieutenant Srour makes with her midsection behind the SUV. It is unclear whether Lieutenant Srour pushed § 87(2)(b) punched her, or did something else in this moment. A physical struggle between them ensues, but the camera is too far away to clearly discern what each of them are doing. Both § 87(2)(b) and Lieutenant Srour appear to raise their arms to approximately shoulder height, and they both appear to be grappling each other's shoulders or midsections. A crowd of civilians approaches and surrounds Lieutenant Srour, Detective Nash, and § 87(2)(b) while they are against a black sedan parked behind the SUV. It is unclear whether these civilians made any physical contact with Lieutenant Srour or Detective Nash. At runtime 02:11, Lieutenant Srour places § 87(2)(b)'s back against the hood of the sedan. The crowd continues to surround them, blocking the camera's view. It is unclear in this video whether Detective Nash struck § 87(2)(b) in any fashion.

In a video provided by § 87(2)(b) (IA #173, Board Review 05), at runtime 00:18, Lieutenant Srour is seen holding onto § 87(2)(b)'s hair while they are adjacent to the hood of a parked car. § 87(2)(b)'s back is to the camera, and her arms are in front of her body and are thus not visible. This video does not capture if or how § 87(2)(b) makes contact with Lieutenant Srour in this moment. Lieutenant Srour grabs § 87(2)(b)'s arms and attempts to pull them behind her back, but § 87(2)(b) appears to stiffen her arms, and Lieutenant Srour is unsuccessful at pulling them behind her back before the video ends.

None of the remaining videos capture Lieutenant Srour or Detective Nash striking § 87(2)(b).

Lieutenant Srour stated that while she discussed the fireworks with § 87(2)(b), § 87(2)(b) approached her aggressively by "stomping" and screaming. Lieutenant Srour told § 87(2)(b) to get back, and when they were approximately one arm's length apart, Lieutenant Srour put her hand up to prevent § 87(2)(b) from getting any closer to her. (Lieutenant Srour demonstrated this in her interview by extending her arm forward with her palm facing outward.) Lieutenant Srour did not know whether she pushed § 87(2)(b) in this moment. § 87(2)(b) continued approaching Lieutenant Srour and punched her in the chest. Lieutenant Srour then pinned against a car by § 87(2)(b) and other individuals who

had gathered at the scene. § 87(2)(b) grabbed onto Lieutenant Srour's hair and pulled it throughout the struggle, while other individuals punched and kicked Lieutenant Srour. Lieutenant Srour stated that she punched § 87(2)(b) in her face after she was pinned against the car. Lieutenant Srour also stated that she pulled § 87(2)(b)'s hair, and she explained, "I was fighting with her, I had to do what I had to do to get her off of me." Lieutenant Srour could not see Detective Nash during her struggle with § 87(2)(b) and she did not know whether Detective Nash struck § 87(2)(b) with a radio. After the incident, an ambulance transported Lieutenant Srour to St. Luke's Hospital, where she was treated for bruises on both legs and her face, and lacerations to her arms and face. She was also bleeding from her scalp due to her hair being pulled out.

Detective Nash's statement was generally consistent with Lieutenant Srour's. He stated that § 87(2)(b)'s first punch was to Lieutenant Srour's face, not her chest. Detective Nash saw Lieutenant Srour punch § 87(2)(b) but he did not know where these punches landed, and he did not see Lieutenant Srour punch § 87(2)(b) in the face. He denied that the first punch was thrown by Lieutenant Srour. Detective Nash stated that neither he nor anyone else struck § 87(2)(b) with a radio.

Photographs linked to Lieutenant Srour's Threat, Resistance, and Injury Worksheet for § 87(2)(b) (Board Review 13) show scratches and bruises to Lieutenant Srour's arms and face, as well as a bloody scalp. § 87(2)(b)'s arrest photograph (Board Review 14) shows swelling to her left eyelid. Detective Nash was shown § 87(2)(b)'s arrest photograph and stated that he did not know how § 87(2)(b) sustained the injury to her left eye, and he denied causing this injury himself.

Patrol Guide Procedure 221-01 (Board Review 15) states, "Force may be used when it is reasonable to ensure the safety of a member of the service... or when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances. ... In determining whether the use of force is reasonable, members of the service should consider... the nature and severity of the crime/circumstances, actions taken by the subject... immediacy of the perceived threat or harm to the subject, members of service, and/or bystanders... whether the subject is actively resisting custody... [the] number of subjects in comparison to the number of MOS... [and the] presence of [a] hostile crowd or agitators."

§ 87(2)(g)  
[REDACTED]

§ 87(2)(g)

**Allegation (D) Force: Detective Andrew Nash used physical force against § 87(2)(b)**

**Allegation (L) Force: Lieutenant Filastin Srour used physical force against § 87(2)(b)**

§ 87(2)(b) stated that after Detective Nash struck § 87(2)(b) with his radio (see Allegation C), she moved closer towards them. When she was approximately two arm lengths away from § 87(2)(b) and Detective Nash, Detective Nash punched her forehead one time, pushed her, and told her to step back. § 87(2)(b) stated that Detective Nash did not give her any commands before punching her. She stated that she sustained swelling to her forehead from his punch. Later, § 87(2)(b) approached the scene from the front entrance of 2201 5<sup>th</sup> Avenue when she saw her husband § 87(2)(b) being arrested. § 87(2)(b) did not see § 87(2)(b) being punched, but she learned this from her after the incident.

§ 87(2)(b) stated that after § 87(2)(b) complained that his sister § 87(2)(b) was bleeding, § 87(2)(b) extended her arm in front of § 87(2)(b) at which point Detective Nash punched § 87(2)(b) in her forehead. As the officers handcuffed § 87(2)(b) pushed him and advised him against speaking to the officers. § 87(2)(b) then told the officers to wait because § 87(2)(b) had not done anything wrong, and then Lieutenant Srour approached her, punched her once in her left ear, and told the officers to arrest her too.

§ 87(2)(b) stated that he did not observe any of his relatives, except § 87(2)(b) being hit by any of the officers. § 87(2)(b) stated that she was informed that an officer punched § 87(2)(b) but she did not see this happen. None of the remaining civilians mentioned § 87(2)(b) or § 87(2)(b) being punched.

In a video provided by § 87(2)(b) (IA #173, Board Review 05), Detective Nash is seen reaching towards § 87(2)(b) whose back is to the camera. § 87(2)(b)'s head recoils back while Detective Nash's open palm moves away from her, but the exact manner of Detective Nash's contact with her in this moment is unclear.

None of the remaining videos capture § 87(2)(b) being struck by Lieutenant Srour or any other officer. The NYCHA video appears to capture a physical altercation between the officers and numerous civilians, but the events take place too far from the camera to clearly discern what is happening.

Detective Nash did not recall § 87(2)(b) or § 87(2)(b) being punched in the face. He denied punching § 87(2)(b) himself and, after being shown a photograph of § 87(2)(b) stated that he did not recognize her.

Lieutenant Srour did not recognize § 87(2)(b) or § 87(2)(b) when shown their photographs. Lieutenant Srour did not know whether any officer punched § 87(2)(b). Lieutenant Srour did not recall punching § 87(2)(b). She noted that she did not know



whether she punched anyone besides § 87(2)(b) because she was being “jumped” and was “in a moment of frenzy.”

No Threat, Resistance, and Injury Worksheet was prepared for § 87(2)(b) or § 87(2)(b) § 87(2)(b)

§ 87(2)(g) § 87(2)(g) § 87(2)(g) § 87(2)(g)

**Allegation (E) Force: Detective Andrew Nash used pepper spray against § 87(2)(b)**  
**Allegation (F) Abuse of Authority: Detective Andrew Nash threatened individuals with the use of force.**  
**Allegation (G) Force: Detective Andrew Nash used physical force against § 87(2)(b) Strong- § 87(2)(b)**  
**Allegation (H) Force: Detective Andrew Nash used physical force against § 87(2)(b)**  
**Allegation (I) Force: Detective Andrew Nash used physical force against § 87(2)(b)**  
**Allegation (J) Discourtesy: Detective Andrew Nash spoke discourteously to individuals.**  
**Allegation (K) Abuse of Authority: An officer threatened § 87(2)(b) with the use of force.**

Detective Nash stated that while Lieutenant Srouer attempted to apprehend § 87(2)(b) a crowd of approximately 15 to 20 people formed and stood in close proximity to them. The crowd pushed Detective Nash and Lieutenant Srouer and attempted to prevent Lieutenant Srouer from apprehending § 87(2)(b). As the crowd grew, Detective Nash pushed people back and told them to back up in order to give Lieutenant Srouer the space she needed to apprehend § 87(2)(b). The crowd did not comply, so Detective Nash told the crowd to “back the fuck up,” to no avail. § 87(2)(b) punched Lieutenant Srouer in the back of her head and pulled at her hair while she attempted to apprehend § 87(2)(b). Detective Nash pepper sprayed § 87(2)(b) s face, and § 87(2)(b) fled to an unknown location. § 87(2)(b) pushed Lieutenant Srouer, Detective Nash, and § 87(2)(b) in an attempt to separate § 87(2)(b) from Lieutenant Srouer. Detective Nash then pushed § 87(2)(b) and told him to get back. § 87(2)(b) and § 87(2)(b) also pushed Detective Nash and Lieutenant Srouer in an attempt to separate them from § 87(2)(b). To get the crowd to back up, Detective Nash pointed his pepper spray towards everyone who had pushed him and Lieutenant Srouer and refused to get back. Detective Nash stated that § 87(2)(b) swung at him and Lieutenant Srouer, and punched Detective Nash in the face. Detective Nash then immediately punched § 87(2)(b) in his face, and § 87(2)(b) moved away.

Lieutenant Srouer stated that she was unable to see what Detective Nash was doing while she was struggling with § 87(2)(b).

In a video provided by § 87(2)(b) (IA #173, Board Review 05), a crowd surrounds Lieutenant Srouer and Detective Nash while Lieutenant Srouer is attempting to apprehend § 87(2)(b). Both officers are heard telling the crowd to back up numerous times. Lieutenant Srouer and § 87(2)(b) are physically struggling with each other in front of a parked vehicle. Det.

Nash is standing at the driver side of the vehicle by the hood, and § 87(2)(b) walks towards the passenger side of the hood, raises his hand towards Detective Nash's face, and says, "What the fuck are you doing this for?" Detective Nash pepper sprays § 87(2)(b) who moves away. Detective Nash then turns around, waves his pepper spray towards the crowd on the sidewalk, and says, "Back up, back up." § 87(2)(b) is seen standing directly behind § 87(2)(b) while she and Lieutenant Srour are struggling. Detective Nash is seen pushing § 87(2)(b) away from them several times. Detective Nash is also seen pushing § 87(2)(b) and § 87(2)(b) after they were told to back up numerous times but refused to comply.

In another video provided by § 87(2)(b) (IA #176, Board Review 06), while Lieutenant Srour and § 87(2)(b) are struggling, Detective Nash continuously tells the crowd to back up, but § 87(2)(b) and § 87(2)(b) remain within an arm's reach. Detective Nash pushes § 87(2)(b) back, but he immediately moves back to where he stood before being pushed. § 87(2)(b) says they are backing up, and Detective Nash responds, "So back the fuck up."

None of the videos capture § 87(2)(b) being punched.

§ 87(2)(b) stated that after Detective Nash punched her in the forehead (see Allegation D), § 87(2)(b) jumped in front of her and told everyone to back up, and then Detective Nash pushed § 87(2)(b) once in her chest without saying anything to her beforehand. § 87(2)(b) screamed for the officers to stop, but was not involved in any physical struggle with the officers. Detective Nash then pushed § 87(2)(b) and yelled "Back up!" § 87(2)(b) approached the officers and shielded § 87(2)(b) from Lieutenant Srour by placing his body on top of hers while Lieutenant Srour was still holding onto her hair and arm. Detective Nash then pushed § 87(2)(b) out of the way, and § 87(2)(b) fell back onto a car. After the backup units arrived, approximately ten officers began handcuffing § 87(2)(b) who complained that his pants had fallen. An unidentified officer drew his Taser and allegedly pointed it towards § 87(2)(b) who was not offering any resistance.

§ 87(2)(b) approached Lieutenant Srour in the street and complained that she was hitting his mother, § 87(2)(b). Detective Nash drew his pepper spray, told the rest of the crowd to back up, and then pepper sprayed § 87(2)(b) who then moved away from Lieutenant Srour. § 87(2)(b) did not become involved in the struggle or make any physical contact with the officers before he was pepper sprayed. § 87(2)(b) made no mention of § 87(2)(b) being punched.

§ 87(2)(b) stated that while the struggle between Lieutenant Srour and § 87(2)(b) was ongoing, Detective Nash held his pepper spray in his hand and pointed it towards § 87(2)(b) and § 87(2)(b). § 87(2)(b) was standing closest to Detective Nash at the time, and Detective Nash pushed § 87(2)(b) who moved back. After punching § 87(2)(b) in the face (see Allegation D), everyone began to back up, and Detective Nash pushed § 87(2)(b) in her chest, causing her to stumble backwards. Before she was pushed, § 87(2)(b) was standing approximately six to eight feet away from Detective Nash, who was directly in front of Lieutenant Srour and § 87(2)(b). § 87(2)(b) stated that § 87(2)(b) asked the officers what they were doing, and then Detective Nash pepper sprayed him, but she did not recall

whether she saw this herself or learned about this after the fact. § 87(2)(b) made no mention of § 87(2)(b) being punched,

§ 87(2)(b) stated that numerous officers told him and his relatives to “back the fuck up.” He and § 87(2)(b) made no mention of anyone being pushed or pepper sprayed, or of any officer pointing a Taser or pepper spray towards anyone. § 87(2)(b) made no mention of being punched by anyone.

§ 87(2)(b) stated that Detective Nash pepper sprayed him after striking § 87(2)(b) with his radio (see Allegation C), but he provided no additional information. He made no mention of anyone being pushed or punched, or of an officer pointing a Taser or pepper spray towards anyone else.

§ 87(2)(b) stated that an officer pepper sprayed § 87(2)(b) and pointed a Taser at § 87(2)(b) and that six to seven officers pushed unspecified individuals in the crowd. An officer told § 87(2)(b) to back up, and she complied but continued to yell for her aunt. An unidentified officer then pushed § 87(2)(b) back in her chest with two fingers. § 87(2)(b) made no mention of § 87(2)(b) being punched.

§ 87(2)(b) said the officers were “physical” with him and his relatives, but he was unable to elaborate and noted that his memory of the incident was “blurry.” He noted that he “huddled over” § 87(2)(b) to prevent the officers from hitting her. He stated that there was “nothing unusual” about his arrest. § 87(2)(b) stated that none of his relatives, except § 87(2)(b) was hit by any of the officers.

Patrol Guide Procedure 221-01 (Board Review 15) allows officers to use force when it is reasonable to ensure the safety of a member of the service, or when it is reasonable to place a person in custody. Factors to be considered in determining whether the use of force is reasonable include the following: the nature and severity of the crime/circumstances; actions taken by the subject; duration of the action; immediacy of the perceived threat or harm to the subject; members of service or bystanders; whether the subject is actively resisting custody; whether the subject is attempting evade arrest by flight; the number of subjects in comparison to the number of members of service; size, age and condition of the subject in comparison to the member of service; subject’s violent history if known; presence of hostile crowd or agitators; and whether the subject is apparently under the influence of a stimulant/narcotic which would affect pain tolerance or increase likelihood of violence.

Patrol Guide Procedure 221-07 (Board Review 15) states, “O.C. pepper spray may be used to gain or maintain control of persons who are actively resisting arrest or lawful custody or exhibiting active aggression, or to prevent individuals from physically injuring themselves, members of the service, or other persons. O.C. pepper spray may be used in arrest or custodial restraint situations where physical presence and/or verbal commands have not been, or would not be, effective in overcoming physical resistance. ... In most cases, O.C. pepper spray will reduce or eliminate the need for physical force to effect an arrest or gain custody. It will often reduce the potential injuries to members and suspects that may result from physical restraint and it should be regarded as a possible alternative to such force and restraint, where practical [emphasis supplied]. ... In an effort to gain voluntary compliance, members of the service should advise the offender

that O.C. pepper spray will be used to handcuff/restrain him/her before applying such force, if feasible.”

Patrol Guide Procedure 221-08 (Board Review 15) states, “[A] laser warning [is defined as] pointing and placing the laser dot of an activated CEW (conducted electrical weapon) on a subject in order to attempt to achieve voluntary compliance. ... [A] warning arc [is defined as] the activation and discharge of a CEW with the cartridge removed that displays a visible and audible arcing of electricity between the front electrodes of the CEW to the intended subject in order to attempt to achieve voluntary compliance.”

According to Patrol Guide Procedure 200-02, the NYPD is committed to “treating every citizen with compassion, courtesy, professionalism, and respect.” Officers may use profanities “in the context of a dynamic situation over which [he or she is] attempting to gain control,” but many not do so when it “[serves] no legitimate purpose but to belittle” a civilian (PD v. Pichardo, DAO DCT Case Number 2015-15012) (Board Review 15).

§ 87(2)(g) [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] Neither Lieutenant Srour nor Detective Nash stated that they believed anyone was intoxicated.

§ 87(2)(g) [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

§ 87(2)(g) [REDACTED]  
[REDACTED]

§ 87(2)(g)

**Allegation (M) Abuse of Authority: Lieutenant Filastin Srour stopped** § 87(2)(b)

§ 87(2)(b) stated that after § 87(2)(b) and § 87(2)(b) were handcuffed, Lieutenant Srour approached her and said, “Lock her up too,” without specifying a reason. An unidentified officer then handcuffed § 87(2)(b). An unidentified officer then approached a group of officers surrounding § 87(2)(b) and told them to let her go because she had not done anything. § 87(2)(b) was then released.

Lieutenant Srour stated that while she attempted to place § 87(2)(b) under arrest, other civilians began to gather “on top of” them and pinned her against a car. These individuals repeatedly punched Lieutenant Srour in the face, kicked her legs and pulled her hair. After § 87(2)(b) was handcuffed, Lieutenant Srour tried to find the other individuals who were involved in “jumping” her to have them arrested, but she did not recall whether she found any of these individuals. Lieutenant Srour was shown a photograph of § 87(2)(b) and stated that she did not recognize her.

BWC footage from Police Officer Samia Johnson of the 25<sup>th</sup> Precinct (IA #92, Board Review 16) begins with a crowd of civilians standing in front of Police Officer Johnson and two other officers, who are lined up at the curb and facing the crowd. § 87(2)(b) appears to make her way through the crowd and towards the officers. An unidentified individual then grabs § 87(2)(b)'s arm, and then § 87(2)(b) is handcuffed. Lieutenant Srour cannot be heard saying “Lock her up too” because the audio does not begin until runtime 00:30. At runtime 04:25, Police Officer Johnson approaches § 87(2)(b) and a uniformed female officer and says, “I don’t know who cuffed her.” The uniformed female officer says, “I don’t know who cuffed her either,” and, “No, no, she’s not under.” This officer then removes the handcuffs from § 87(2)(b).

In BWC footage from Police Officer Anthony Ippolito of the 25<sup>th</sup> Precinct (IA #97, Board Review 17), at runtime 02:20, Lieutenant Srour is heard saying, “Her too, put her in cuffs,” while pointing towards an unidentified individual who is not seen.

In the NYCHA footage from 2201 5<sup>th</sup> Avenue (IA #327, Board Review 03), § 87(2)(b) who is in a white dress, remains in close proximity to Lieutenant Srour during her physical struggle with § 87(2)(b). It is unclear in this video if or how § 87(2)(b) made physical contact with Lieutenant Srour. At runtime 02:13, § 87(2)(b) appears to be pushed away from the commotion, but she then immediately moves back towards it.

According to People v. DeBour (40 N.Y.2d 210, 1976, Board Review 15), an officer may stop an individual if he or she has reasonable suspicion that the individual has committed, is committing, or is about to commit a crime.”

§ 87(2)(g)

**Allegation (N) Discourtesy: Lieutenant Filastin Srour spoke discourteously towards**

§ 87(2)(b)

**Allegation (O) Offensive Language: Lieutenant Filastin Srour made remarks to**

§ 87(2)(b)

**based upon the gender of**

§ 87(2)(b)

**Allegation (P) Abuse of Authority: Lieutenant Filastin Srour threatened**

§ 87(2)(b)

**Strong**

**with the use of force.**

In a BWC video from Police Officer David Listhrop of the 25<sup>th</sup> Precinct (IA #106, Board Review 18), at runtime 00:30, immediately prior to § 87(2)(b) being handcuffed, Lieutenant Srour is heard saying, "...bitch. You're one of them, you fucking bitch. Hold me the fuck back before I kill this bitch." Lieutenant Srour is seen standing in close proximity to Police Officer Listhrop when these statements are made. In a BWC video from Police Officer Chris Ganesh of the 25<sup>th</sup> Precinct (IA #98, Board Review 19), in addition to these remarks, Lieutenant Srour is heard saying, "I want you all to fucking kill her," at runtime 01:54. Lieutenant Srour is seen standing in close proximity to Police Officer Ganesh when these statements are made.

When shown the footage from Police Officer Listhrop's BWC, Lieutenant Srour stated that she could not tell whether the voice that made these statements was her own.

According to Patrol Guide Procedure 200-02, the NYPD is committed to "treating every citizen with compassion, courtesy, professionalism, and respect." Officers may use profanities "in the context of a dynamic situation over which [he or she is] attempting to gain control," but many not do so when it "[serves] no legitimate purpose but to belittle" a civilian (PD v. Pichardo, DAO DCT Case Number 2015-15012) (Board Review 15).

Patrol Guide Procedure 221-01 (Board Review 15) states, "The use of deadly physical force against a person can only be used to protect MOS and/or the public from imminent serious physical injury or death."

§ 87(2)(g)

§ 87(2)(g)

**Allegation (Q) Abuse of Authority: An officer threatened to arrest § 87(2)(b)**

**Allegation (R) Abuse of Authority: An officer interfered with § 87(2)(b) use of a recording device.**

**Allegation (S) Abuse of Authority: An officer interfered with § 87(2)(b) s use of a recording device.**

**Allegation (T) Abuse of Authority: An officer threatened § 87(2)(b) with the use of force.**

In a telephone statement, § 87(2)(b) stated that after Lieutenant Srour punched § 87(2)(b) (see Allegation B), she began recording the incident, and an officer whom she could not describe told her that she could be arrested if she kept recording. § 87(2)(b) stated that she no longer had this video. On September 12, 2018, § 87(2)(b) missed an interview appointment, and on December 19, 2018, a call was made to § 87(2)(b) who said she did not wish to reschedule her interview appointment. None of the other civilians alleged that an officer threatened to arrest § 87(2)(b) or interfered with her recording, and none of the videos obtained in this investigation capture this alleged statement. § 87(2)(g)

§ 87(2)(b) § 87(2)(b) old at the time of the incident, stated that after an officer pointed a Taser at § 87(2)(b) (see Allegation B), she began filming, and an unidentified female officer told her to put her phone away or she would punch her in the face.

§ 87(2)(b) s statement was consistent with § 87(2)(b) s regarding these allegations, but she stated that the subject officer was an unidentified male, and she noted that she heard this from § 87(2)(b) and did not witness any officer making this statement himself or herself. None of the other civilians mentioned any officer interfering with § 87(2)(b) s recording or threatening to punch her, and none of the videos obtained in this investigation capture these alleged statements.

Lieutenant Srour did not recall saying threatening to punch § 87(2)(b) in the face if she did not put her phone away, nor did she recall any officer saying this, and she denied that she attempted to prevent anyone from filming. Detective Nash stated that neither he nor any other officer interfered with § 87(2)(b) s recording or punched her in the face.

None of the videos capture any officer interfering with § 87(2)(b) s use of a recording device, or threatening § 87(2)(b) with the use of force.

§ 87(2)(g)

### **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) [REDACTED] and § 87(2)(b) [REDACTED] have been a party, except case 201805541, which is a duplicate of this case (Board Review 20).
- § 87(2)(b) [REDACTED] has been a party to one other CCRB complaint and has been named as a victim in one other allegation.
  - § 87(2)(b) [REDACTED]
- Lieutenant Filastin Srour has been a member-of-service for 15 years and has been a subject in eight other CCRB cases and 19 other allegations, of which six were substantiated in two cases.
  - 200500348 involved substantiated allegations of Discourtesy, Detainment, and Refusal to Provide Name/Shield Number against Lieutenant Srour. The Board recommended charges, and the NYPD imposed discipline of instructions.
  - 200508600 involved substantiated allegations of Refusal to Provide Name/Shield Number, Discourtesy, and Seizure of Property against Lieutenant Srour. The Board recommended command discipline, and the NYPD imposed discipline of instructions.
- Detective Andrew Nash has been a member-of-service for eight years and has been a subject in three other CCRB cases and five other allegations, of which one was substantiated.
  - 201707784 involved a substantiated allegation Interference with Recording. The Board recommended formalized training, and the NYPD imposed no penalty against Detective Nash.
  - § 87(2)(g) [REDACTED]

### **Mediation, Civil and Criminal Histories**

- This case was not suitable for mediation.
- § 87(2)(b) [REDACTED] filed a Notice of Claim with the City of New York claiming to have sustained a concussion and “other head trauma;” pain, swelling, and numbness to the wrists and hands; bruising to the body, face, and neck; severe anxiety, humiliation, embarrassment, and severe emotional and psychological trauma; and violations of constitutional rights. She is seeking \$1.5 million as redress (Board Review 21). The New York City Office of the Comptroller has no record of any other Notice of Claim being filed in regards to this complaint.
- § 87(2)(b) [REDACTED]
- § 87(2)(b) [REDACTED]



- § 87(2)(b)
- § 87(2)(b)
  - § 87(2)(b)
  - § 87(2)(b)
  - § 87(2)(b)
  - According to OCA, § 87(2)(b) and § 87(2)(b) have no history of convictions in New York City (Board Review 27, 28, 29).
  - OCA lists no convictions for § 87(2)(b) or § 87(2)(b) regarding this incident (Board Review 01). § 87(2)(b)'s conviction for disorderly conduct stems from this incident (Board Review 02).

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Squad No.: 02

Investigator: \_\_\_\_\_  
Signature Print Title & Name Date

Squad Leader: \_\_\_\_\_  
Signature Print Title & Name Date

Reviewer:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Title & Name

\_\_\_\_\_  
Date